GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services - Revenue (Commercial Taxes) Department - Irregularities committed by Sri G.Prabhakara Murthy, the then CTO, Kurupam Market Centre, Visakhapatnam now DC(ST) (Retd), O/o.CCST, Vijayawada and (4) others in the refund claim of M/s.Essar Projects Ltd., Visakhapatnam, causing loss of Rs.52,57,450/- towards interest payment - Article of Charges framed - WSD submitted - IA & PO appointed - IR communicated - W.P.No.16917/2019 filed for full pension payment - W.A.No.729/2024 filed - Hon'ble High Court delivered judgement dt.15.10.2024 - Proposed to impose a penalty under Rule 9(1) of APRP Rules, 1980 - SCN issued - Written repn.submitted - Imposed penalty of withholding of 10% monthly pension for a period of 10 years besides recovery of amount of Rs.52,57,450/- (paid to M/s.Essar Projects Ltd), from the retired Charged Officer by withholding the Gratuity and Encashment of EL and remaining amount to be recovered from the monthly pension of the retired CO - Orders - Issued.

REVENUE (VIGILANCE-VI) DEPARTMENT

G.O.Rt.No.936 Dated 26-08-2025.
Read the following:-

1. From the CCT's Lr.Ref.No.V1/866/2013, dt.03.06.2015.
2. G.O.Rt.No.925, Revenue (Vig.II) Dept., dt.30.08.2016.
3. G.O.Rt.Nos.930, 931, 932 and 933, Revenue (Vig.II) Dept., dt.30.08.2016.
4. G.O.Rt.Nos.1740, 1741 & 1742, Revenue (Vig-II) Dept., dt.11.12.2018.
5. G.O.Rt.Nos.1743 & 1744, Revenue (Vig-II) Dept., dt.11.12.2018.
6. From the CCT's Lr.Ref.No.V1/866/2013, dt.22.04.2019.
7. G.O.Rt.No.1045, Revenue (CT.II) Dept., dt.05.12.2022.
8. Orders of Honorable High Court dt.16.04.2024 in W.P.No.16917/2019.
9. From Sri G.Prabhakara Murthy, Retd.DC (ST), repn, dt.28.10.2024.
10. Orders of Honorable High Court dt.15.10.2024 in W.A.No.729/2024.
11. Govt.Memo.No.15823/Vig.II(3)-Vig.IV, dt.20.11.2024.
12. From the CCST's Lr.No.REV03-19021(34)/1/2024-VIG-CCT, dt.14.12.2024.
13. Govt.Memo.No.15823/Vig.II(3)/2015 (Comp.No.94614), dt.15.07.2025.
14. From Sri G.Prabhakara Murthy, DC(ST) (retd.), explanation dt.29.07.2025.
15. Contempt Case No.1947/2025 in WA No.729/2024 filed by Sri G.Prabhakara Murthy, former CTO and now DC (ST) (Retd.).

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ORDER:

Whereas in the reference 1st read above, the CCST has reported that certain irregularities are committed by the following officers jointly involved in disciplinary case relating to refund of tax under APGST Act, 1957 for the year 1994-95 and 1995-96 in respect of M/s.Essar Projects Ltd., Visakhapatnam, who was an Assessee on the rolls of CTO, Kurupam Market Centre. In assessment

No.1007/ 1994-95, dt.18.03.1998 and assessment No.1007/1995-96, dt.18.07.1998 the dealers were assessed under the provisions of APGST Act to total tax of Rs.4,46,07,927/- for the year 1994-95 and Rs.1,48,52,626/- for the year 1995-96:-

1. Sri Potharaju, the then CTO (FAC), Kurupam Market Circle;
2. Sri K.V.Srikanth, the then DCTO (FAC), Kurupam Market Circle;
3. Sri S.Jagabandhu Swamy, the then CTO (FAC), Kurupam Market Circle;
4. Sri G.Prabhakara Murthy, the then CTO, Kurupam Market Circle;
5. Sri G.Sitaramamurthy, CTO, Kurupam Market Circle.

2. Due to delay in the refund of Rs.96,14,390/- for the year 1994-95 and Rs.21,84,489/- for the year 1995-96, and a failure to act promptly, leading to the payment of interest amounting to Rs.52,57,450/- to the dealer M/s Essar Projects Limited, thereby causing a loss of revenue to the Government Exchequer. Whereas, in the reference 2nd read above, Govt., have initiated common disciplinary procgs against Sri K.V.Srikanth, DCTO (FAC); Sri S.Jagabandhu Swamy, CTO (FAC); Sri G.Prabhakara Murthy, CTO; and Sri G.Sitaramamurthy, CTO and article of charges were issued in the references 3rd read above. Charges were not framed against Sri M.Potharaju, CTO (FAC) (Retd) due to the lapse of the limitation period under Rule 9 (ii) (b) of AP Revised Pension Rules, 1980 (4 years limitation period). The COs submitted their WSDs. The Charge framed against the Sri G.Prabhakara Murthy, former CTO, Kurupam Market Circle, Visakhapatnam is as follows:-

CHARGE:

"That Sri G. Prabhakara Murthy, the then Commercial Tax Officer, Kurupam Market Circle, Visakhapatnam and presently working as Assistant Commissioner, O/o. Deputy Commissioner (Commercial Taxes), Vijayawada-I Division, while working as Commercial Tax Officer, thus exhibited gross negligence of duty and exhibited slack supervision, due to delay in Refund to a tune of Rs.96,14,390/- for the year 1994-95 and Rs.21,84,489/- for the year 1995-96 and not acting promptly in time, leading to the payment of interest to an extent of Rs.52,57,450/- to the dealer M/s.Essar Projects Limited and caused loss of revenue to the Government Exchequer.

Thus, Sri G.Prabhakara Murthy, the then Commercial Tax Officer, Kurupam Market Circle, Visakhapatnam and presently working as Assistant Commissioner, O/o. Deputy Commissioner (Commercial Taxes), Vijayawada-I Division by the above mentioned acts, has exhibited lack of integrity, devotion to duty, and conduct unbecoming of a Government Servant and thereby violated Rule 3 Andhra Pradesh Civil Services (Conduct) Rules, 1964."

3. After detailed examination of matter, the Govt., observed that Sri K.V. Srikanth and Sri S.Jagabandhu Swamy served as I/c.CTOs for very brief periods of 3 months and 17 days and 10 days respectively and that Sri G. Sitaramamurthy had not received the refund file from his predecessor, Sri G.Prabhakara Murthy, CTO. Further, the concerned Sr.Asst., had not brought the matter to his notice. Govt., advised exonerating the three other CTOs from the

charges and recommended to appoint an Inquiry Authority to investigate the charge framed against Sri G.Prabhakara Murthy, former CTO. Smt.Rama Mani, IAS, Secretary to CCST was appointed as the Inquiry Officer and she submitted her Inquiry Report in lr.dt.22.04.2019. The Inquiry Officer has reported that the charge framed against the CO were held proved.

4. Whereas, in the reference 6th read above, the CCT has stated that wherein the Secretary to Chief Commissioner (ST) has submitted the enquiry report along with charges against Sri G.Prabhakara Murthy, the then CTO for taking further action in the matter. As per findings of inquiry report, it is submitted that facts of the case, it is held that the charge is proved against Sri G.Prabhakara Murthy, formerly CTO, Kurupam Market Centre, Visakhapatnam and presently Dy. Commr. (ST), O/o.JC (ST), Vijayawada-I Division.

5. After following due procedure, Govt., provisionally decided to impose a penalty of stopping two Annual Grade Increments with cumulative effect and to recover the loss amount of Rs.52,57,450/-. Meanwhile, the CO retired from service on 30.06.2021. Consequently, it is proposed to impose a punishment of a 10% cut in his monthly pension for 10 years and to make a decision regarding the recovery of the amount from the CO. The CO has filed W.P.No.16917/2019 before the Hon'ble High Court of A.P., challenging the charge memo issued in the reference 3rd read above and seeking to halt the disciplinary action. The Hon'ble High Court of Andhra Pradesh, Amaravati, in its order dated 16.04.2024 in W.P.No.16917/2019, ordered as follows:-

> *"As rightly put by the learned counsel for the petitioner, the finding of respondent No.4 that the petitioner ought to have refund the amount to the dealer on his own if no decision is taken by the Deputy Commissioner to withhold the refund under the Act cannot be accepted. It is not in dispute that if two tax revision cases are pending against the dealer relating to the refunds in issuer and if finally, they are decided against the dealer and in favour of the state, the dealer would be liable to pay the entire interest along with the interest accrued thereon. It is apt to recollect that the Petitioner has now retired from the service. In the facts and circumstances of the case, this Court is of the view that the continuation of the disciplinary proceedings against the petitioner is not sustainable.*
>
> *In the result, the Writ Petition is allowed. The petitioner is entitled to all his pensionary and retired benefits, vide the governing rules. The respondents are directed to consider the case of the Petitioners on the aspect of post-retirement benefits within a period of four (4) weeks from the date of receipt of the copy of the order".*

6. Government has filed Writ Appeal No.729/2024 against the above orders in which the Honourable High Court in its order dt.15.10.2024 held that *"it has been setting aside the single judge's order that quashed disciplinary proceedings against the respondent. The court found that the single judge had impermissiblly usurped the role of the disciplinary authority by intervening at a stage where the inquiry was complete and a second show cause notice had been issued.*

The court held that the respondent's defenses, such as the absence of records and the denial of documents during the inquiry, should be addressed by the disciplinary authority, not the court. The court emphasized that the authority to impose or not impose punishment lies solely with the disciplinary authority.

The matter has been remitted back to the disciplinary authority, which is directed to consider the respondent's reply to the second show cause notice and pass appropriate orders within six weeks. The respondent is required to submit the reply within three weeks, failing which the disciplinary authority may proceed with the case."

7. Whereas, in the reference 9th read above, the Charged Officer Sri G. Prabhakara Murthy, former CTO, Retd. Dy. Commissioner (ST) has submitted a representation requesting to comply the court orders and take necessary action within the stipulated time. In the reference 11th read above, the CCST was requested to furnish his specific remarks regarding recovery of the interest amount of Rs.52,57,450/- paid to M/s.Essar Projects Ltd., from the Charged Officer. In the reference 12th read above, the CCST has stated that CO retired from Govt. service on 30.06.2021. Hence, A.P.Revised Pension Rules, 1980 shall apply and Rule 9(1) of A.P.Revised Pension Rules, 1980. He has further stated that Govt., issued orders regarding sanction of encashment of earned leave to the retired employees as per G.O.Rt.No.1097, Finance & Planning (FW.PEN.I) Dept., dt.22.06.2000 as well as Rule 52(1)(c) of A.P.Revised Pension Rules, 1980 and has furnished the information on the details of the amount to be sanctioned to Sri G.Prabhakara Murthy, Dy. Commissioner (ST) (Retd.), O/o.CCST, A.P., and requested to take necessary action in the matter.

8. Whereas, Sri G.Prabhakara Murthy, DC (ST) (Retd) in his representation dated 09.01.2025 has stated that Govt., filed a Writ Appeal No.729/2024 filed against the writ orders of the Hon'ble High Court of A.P., in W.P.No.16917/2019, dt.16.04.2024. Hence, he has requested to pass the necessary orders immediately without any further delay to enable him to take further action in the regard, as he has not getting many of his pensionary benefits.

9. Government have examined the matter report of the Inquiry Officer and written explanation submitted by the Charged officer and record of material and decided to propose to impose a penalty of withholding of 10% monthly pension for a period of 10 years in addition to recovery of interest amount of Rs.52,57,450/- paid to M/s.Essar Projects Ltd., from the Charged Officer by withholding (Gratuity Rs.12,00,000/- and encashment of EL of Rs.18,80,686/- (approximately) and remaining amount to be recovered from the monthly pension of the individual.

10. Accordingly, in the reference 13th read above, a show-cause notice has been issued to the Charged Officer Sri G.Prabhakara Murthy, Dy.Commissioner (ST) (Retd.) as required under Rule 9 of A.P.Revised Pension Rules, 1980 with a direction to submit his reply to the Show Cause Notice within 15 days from the date of receipt of the notice to the Government which fails it will be construed that he has no representation to offer in the matter and further action will taken based on the material available with the Disciplinary Authority.

11. In reply to the Show-Cause Notice, in the reference 14th read above, the Charged Officer has furnished his explanation stating that the proposals made in Show-Cause Notice is believed to be revealing the effort to somehow save the then DC(CT), Visakhapatnam Division, who is reportedly the actual person for the delays in giving refund of Rs.96,14,390/- + Rs.21,84,489/- (Total Rs.117,98,879/-) to M/s.Essar Projects Ltd., that is erroneously claimed to have lead to the payment of interest of Rs.52,57,450/- to it. The 3rd Show-cause notice issued by the Govt., is arbitrary, unreasonable and suffering from the vice of pre-mediation/predetermination and bias which are also prohibited by the Art.14 of the Constitution of India. He has stated that orders of Hon'ble High Court in W.A.No.729/2024, dt.15.10.2024 wherein he was directed to pass the necessary orders within 6 weeks from the date of receipt of the reply to the 2nd show-cause. But till 07.07.2025 no orders are passed. Hence, a competent petition is also filed by him before the Hon'ble High Court in C.C.No.1947/2025 in W.A.No.729/2024, dt.07.07.2025 for not passing the orders by him within the 6 weeks time. He has stated that the direction given by the Hon'ble High Court to pass the orders in accordance with law. But, as against this unambiguous direction, this 3rd Show-cause Notice was issued in violation of the law under rule 20(5)(d) of APCS (CC&A) Rules, 1991. He never violated the rule 3 of APCS (Conduct) Rules, 1991, Govt., have violated the rule 9(1) of the APRP Rules, 1980. He has stated that the refund which allegedly not given promptly i.e., with a delay along with the interest @ 10% annum is as per the mandate in this provision of law viz., Sec.33 E of the APGST Act, 1957. He has sent the proposals accordingly to the then DC(ST), Visakhapatnam Division as mandated u/s.33 C of the APGST Act, 1957 for his prior approval, but, in vain. He refused to exercise his powers vested in sec.33 C of the APGST Act, 1957 nor he has directed him to given the refund as per the binding Circular of the then CCST. Besides, the refund amount of Rs.96,14,390/- + Rs.21,84,489/- (Total Rs.117,98,879/-) was used by the GoAP because of his decision to withhold the refund in favour of the State of A.P., and hence they have paid the interest u/s.33 E of the APGST Act, 1957. They used the money of the dealer and hence paid the interest due thereon. Recovering the interest from him is wholly arbitrary and unreasonable and when the interest was paid as per the law it can't be treated as loss of revenue to the GoAP and the same is in violation of the 3 of the Conduct Rules. It is not even alleged in the present case he has not prompt in processing the refund application of the dealer in issue with any ill-motivate/oblique motive or willfully or current practice. He has stated that the conclusion arrived is contrary to the law laid down by the Hon'ble Supreme Court of India in the case of Zunjar Rao Bhikaji Nagarkar Vs. UOI and others dt.06.08.1999 report in 1999(7) SCC 409: AIR 1999 SC 2881 in the case of Roop Singh Negi Vs. Punjab National Bank, dt.19.12.2008 in C.A.No.7431 of 2009. Finally he has requested to kindly consider his letter of objections along with its enclosures as part of his objections, dt.25-10-2024 and pass orders in the matter.

12. It is observed that the charged officer has not made any further correspondence or reminded the Deputy Commissioner (CT), Visakhapatnam on the issue nor he had not taken necessary action in time. The Charged Officer being the assessing authority i.e. Commercial Tax Officer, Kurupam Market Centre, Visakhapatnam had not taken any further action in his entire tenure from 12.08.2009 to 30.05.2012 (nearly 2 years 9 months). This resulted on the firm approaching the Hon'ble High Court and subsequent orders for payment of

refund along with interest vide orders dt.25.02.2013. Hence, the Charge framed against the Charged Officer is proved and he has not put forth any new grounds to substantiate his arguments.

13. Government, after careful examination of the matter and written explanation to the show-cause notice submitted by the Charged Officer and in view of the findings of the Inquiry Officer, hereby order to impose penalty of withholding of 10% monthly pension for a period of 10 (ten) years besides recovery of amount of Rs.52,57,450/- (interest paid to M/s.Essar Projects Ltd.), from the retired Charged Officer by withholding the Gratuity Rs.12,00,000/- and Encashment of EL of Rs.18,80,686/- (approximately) and remaining amount to be recovered from the monthly pension of the Charged Officer Sri G.Prabhakara Murthy, the then CTO, Kurupam Market Centre, Visakhapatnam now retired as Dy. Commissioner (ST) O/o.CCST, Vijayawada under Rule 9(1) of A.P.Revised Pension Rules, 1980 and as per the orders issued in G.O.Rt.No.1097, Finance & Planning (FW.PEN.I) Dept., dt.22.06.2000, as the charge framed against him is held proved.

14. The Chief Commissioner of State Tax, Andhra Pradesh shall take further necessary action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

PEEYUSH KUMAR
PRINCIPAL SECRETARY TO GOVERNMENT

To
The individual concerned (through the Chief Commissioner of State Tax, Andhra Pradesh, Kunchanapalli, Guntur district.
The Chief Commissioner of State Tax, Andhra Pradesh, Kunchanapalli, Guntur district

Copy to:-
The Accountant General, Andhra Pradesh, Vijayawada
The Secretary to Vigilance Commissioner, A.P.Vigilance Commission, for favour of information
SF/SCs (Computer No.94614)

// FORWARDED :: BY ORDER //

V. Srinivasa Rao
SECTION OFFICER